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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2144

**Introduced by Assembly Members John A. Pérez, Atkins, and
Dickinson
(Principal coauthor: Assembly Member Bonilla)**

February 23, 2012

An act to ~~amend Sections 53395.1, 53395.2, 53395.3, 53395.4, 53395.5, 53395.10, 53395.14, 53395.15, 53395.19, 53395.23, 53395.24, 53397.6, and 53397.10 of, and to add Sections 53395.1.5, 53395.3.1, and 53395.26 to, add Chapter 2.10 (commencing with Section 53399) to Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 33459 of the Health and Safety Code, relating to local government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2144, as amended, John A. Pérez. Local government: infrastructure and revitalization financing districts.

Existing law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected

taxing entities proposed to be subject to division of taxes and $\frac{2}{3}$ voter approval. Existing law authorizes the legislative body to, by majority vote, initiate proceedings to issue bonds for the financing of district projects by adopting a resolution, subject to specified procedures and $\frac{2}{3}$ voter approval. Existing law requires an infrastructure financing plan to include the date on which an infrastructure financing district will cease to exist, which may not be more than 30 years from the date on which the ordinance forming the district is adopted. Existing law prohibits a district from including any portion of a redevelopment project area. Existing law, the Polanco Redevelopment Act, authorizes a redevelopment agency to take any action that the agency determines is necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions. Existing law also declares the intent of the Legislature that the areas of the district created be substantially undeveloped, and that the establishment of a district should not ordinarily lead to the removal of dwelling units.

This bill would authorize the creation of an infrastructure and revitalization financing district, *as defined*, and the issuance of debt with 55% voter approval. The bill would authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years, as specified. The bill would ~~delete the prohibition on a district including any portion of a redevelopment project area, as defined, and~~ authorize a district to finance projects in redevelopment project areas and former redevelopment project areas and former military bases. The bill would authorize the legislative body of a city to dedicate any portion of its funds received from the Redevelopment Property Tax Fund to the district, if specified criteria are met. The bill would authorize a city to form a district to finance a project or projects on a former military base, if specified conditions are met. The bill would provide that the formation of the district and the issuance of debt by such a district on land of a former military base that is publicly owned is not subject to voter approval, as specified.

The bill would ~~expand the projects that a district may fund to include~~ *authorize a district to fund various projects, including, among others,* watershed land used for the collection and treatment of water for urban uses, flood management, levees, bypasses, open space, habitat restoration, brownfields restoration, environmental mitigation, purchase of land and property for development purposes, including commercial

property, hazardous cleanup, former military bases, and specified transportation purposes. The bill would authorize a district to implement hazardous cleanup pursuant to the Polanco Redevelopment Act, as specified. The bill would impose a specified reporting requirement on districts. The bill would ~~delete the statement of the intent of the Legislature that the area of the district be substantially undeveloped, and would instead state that it is the intent of the Legislature that the establishment of a district should not ordinarily lead to the removal of existing functional, habitable, and safe dwelling units, as specified. The bill would make a further statement of legislative intent and would change the name of an “infrastructure financing district” to “infrastructure and revitalization financing district.”~~ The bill would define the term “public works” for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.10 (commencing with Section 53399)
2 is added to Part 1 of Division 2 of Title 5 of the Government Code,
3 to read:

4
5 CHAPTER 2.10. INFRASTRUCTURE AND REVITALIZATION
6 FINANCING DISTRICTS

7
8 Article 1. General Provisions
9

10 53399. It is the intent of the Legislature in enacting this chapter
11 to establish a long-term permanent program that provides local
12 governments with tools and resources for specified purposes,
13 including, but not limited to, public infrastructure, affordable
14 housing, economic development and job creation, and
15 environmental protection and remediation, in a manner that
16 encourages local cooperation and includes appropriate protections
17 for state and local taxpayers.

18 53399.1. Unless the context otherwise requires, the definitions
19 contained in this article shall govern the construction of this
20 chapter.

21 (a) “Affected taxing entity” means any governmental taxing
22 agency that levied or had levied on its behalf a property tax on all

1 *or a portion of the property located in the proposed district in the*
2 *fiscal year prior to the designation of the district, but not including*
3 *any county office of education, school district, or community*
4 *college district.*

5 (b) *“City” means a city, a county, or a city and county.*

6 (c) *“Debt” means any binding obligation to repay a sum of*
7 *money, including obligations in the form of bonds, certificates of*
8 *participation, long-term leases, loans from government agencies,*
9 *or loans from banks, other financial institutions, private businesses,*
10 *or individuals.*

11 (d) *“Designated official” means the city engineer or other*
12 *appropriate official designated pursuant to Section 53399.13.*

13 (e) (1) *“District” means an infrastructure and revitalization*
14 *financing district.*

15 (2) *An infrastructure and revitalization financing district is a*
16 *“district” within the meaning of Section 1 of Article XIII A of the*
17 *California Constitution.*

18 (f) *“Infrastructure and revitalization financing district” means*
19 *a legally constituted governmental entity established pursuant to*
20 *this chapter for the sole purpose of financing facilities authorized*
21 *by this chapter.*

22 (g) *“Landowner” or “owner of land” means any person shown*
23 *as the owner of land on the last equalized assessment roll or*
24 *otherwise known to be the owner of the land by the legislative*
25 *body. The legislative body has no obligation to obtain other*
26 *information as to the ownership of land, and its determination of*
27 *ownership shall be final and conclusive for the purposes of this*
28 *chapter. A public agency is not a landowner or owner of land for*
29 *purposes of this chapter, unless the public agency owns all of the*
30 *land to be included within the proposed district.*

31 (h) *“Legislative body” means the city council or board of*
32 *supervisors.*

33 (i) *“Project area” means a defined area within a district in*
34 *which the activities of the district share a common purpose or goal*
35 *and an overall financing plan.*

36 (j) *“Public works” means public facilities or any other facilities*
37 *described in Section 53399.3 that are to be financed in whole or*
38 *in part by the district.*

39 (k) *“Net available revenue” means periodic distributions to the*
40 *city from the Redevelopment Property Tax Trust Fund, created*

1 pursuant to Section 34170.5 of the Health and Safety Code, that
2 are available to the city after all preexisting legal commitments
3 and statutory obligations funded from that revenue are made
4 pursuant to Part 1.85 (commencing with Section 34170) of Division
5 24 of the Health and Safety Code. Net available revenue shall only
6 include revenue remaining after all current distributions, including,
7 but not limited to, payment of enforceable obligations, all
8 distributions to other taxing entities, and applicable administrative
9 fees, have been made.

10 53399.2. (a) The revenues available pursuant to Article 3
11 (commencing with Section 53399.30) may be used directly for
12 work allowed pursuant to Section 53399.3, may be accumulated
13 for a period not to exceed five years to provide a fund for that
14 work, may be pledged to pay the principal of, and interest on,
15 bonds issued pursuant to Article 4 (commencing with Section
16 53399.40), or may be pledged to pay the principal of, and interest
17 on, bonds issued pursuant to the Improvement Bond Act of 1915
18 (Division 10 (commencing with Section 8500) of the Streets and
19 Highways Code) or the Mello-Roos Community Facilities Act of
20 1982 (Chapter 2.5 (commencing with Section 53311)), the proceeds
21 of which have been or will be used entirely for allowable purposes
22 of the district. The revenue of the district may also be advanced
23 for allowable purposes of the district to an Integrated Financing
24 District established pursuant to Chapter 1.5 (commencing with
25 Section 53175), in which case the district may be party to a
26 reimbursement agreement established pursuant to that chapter.
27 The revenues of the district may also be committed to paying for
28 any completed facility acquired pursuant to Section 53399.3 over
29 a period of time, including the payment of a rate of interest not to
30 exceed the bond buyer index rate on the day that the agreement
31 to repay is entered into by the city.

32 (b) The legislative body may enter into an agreement with any
33 affected taxing entity providing for the construction of, or
34 assistance in, financing facilities.

35 53399.3. (a) A district may finance (1) the purchase,
36 construction, expansion, improvement, seismic retrofit, or
37 rehabilitation of any real or other tangible property with an
38 estimated useful life of 15 years or longer which satisfies the
39 requirements of subdivision (b), (2) may finance planning and
40 design work which is directly related to the purchase, construction,

1 expansion, improvement, rehabilitation, or seismic retrofit of that
2 property, and (3) the costs described in Sections 53399.6 and
3 53399.31. The facilities need not be physically located within the
4 boundaries of the district. A district may not finance routine
5 maintenance, repair work, or the costs of ongoing operation or
6 providing services of any kind.

7 (b) The district shall finance only facilities or projects of
8 communitywide significance, including, but not limited to, any of
9 the following:

10 (1) Highways, interchanges, ramps and bridges, arterial streets,
11 parking facilities, and transit facilities.

12 (2) Sewage treatment and water reclamation plants and
13 interceptor pipes.

14 (3) Facilities and watershed lands used for the collection and
15 treatment of water for urban uses.

16 (4) Flood management, including levees, bypasses, dams,
17 retention basins, and drainage channels.

18 (5) Child care facilities.

19 (6) Libraries.

20 (7) Parks, recreational facilities, open space, and habitat
21 restoration.

22 (8) Facilities for the transfer and disposal of solid waste,
23 including transfer stations and vehicles.

24 (9) Brownfields restoration and other environmental mitigation.

25 (10) Purchase of land and property for development purposes
26 and related site improvements.

27 (11) Acquisition, construction, or repair of housing for rental
28 or purchase, including multipurpose facilities.

29 (12) Acquisition, construction, or repair of commercial or
30 industrial structures for private use.

31 (13) The repayment of the transfer of funds to a military base
32 reuse authority pursuant to Section 67851.

33 (c) Any district that constructs dwelling units shall set aside not
34 less than 20 percent of those units to increase and improve the
35 community's supply of low- and moderate-income housing
36 available at an affordable housing cost, as defined by Section
37 50052.5 of the Health and Safety Code, or at an affordable rent,
38 as defined by Section 50053 of the Health and Safety Code, to
39 persons and families of low and moderate income, as defined in
40 Section 50093 of the Health and Safety Code.

1 (d) A district may utilize any powers under the Polanco
2 Redevelopment Act (Article 12.5 (commencing with Section 33459)
3 of Chapter 4 of Part 1 of Division 24 of the Health and Safety
4 Code), and finance any action necessary to implement that act.

5 (e) A district may finance any project that implements a
6 sustainable communities strategy prepared pursuant to Section
7 65080.

8 53399.4. (a) A city may form a district to finance a project or
9 projects on a former military base pursuant to the requirements
10 set forth in this chapter.

11 (b) A district formed under this section may finance a project
12 pursuant to this section or Section 53399.3 only if the project is
13 consistent with the authority reuse plan and is approved by the
14 military base reuse authority, if applicable.

15 (c) Notwithstanding Sections 53399.20, 53399.21, 53399.22,
16 53399.23, and 53399.44, the following actions shall not be subject
17 to voter approval in the case of a district formed under this section:

18 (1) The formation of the district, provided that, at the time of
19 approval of the formation of the district, all of the land within the
20 proposed district is owned by one or more public entities, military
21 base reuse authorities, or entities controlled by governmental
22 agencies.

23 (2) The authorization to issue debt and the issuance of debt by
24 a district formed under this section to finance facilities described
25 in the infrastructure financing plan, provided that, at the time of
26 approval of the formation of the district, all of the land within the
27 proposed district, or a designated project area within the district
28 on which the facilities to be financed with the bonds will be located
29 is owned by one or more public entities, military base reuse
30 authorities, or entities controlled by governmental agencies. The
31 bonds authorized by this paragraph may be issued in one or more
32 series upon the adoption by the district of the resolution described
33 in subdivision (b) of Section 53399.44.

34 53399.5. (a) A district may finance only the facilities or
35 services authorized in this chapter. The additional facilities or
36 services may not supplant facilities or services already available
37 within that territory when the district was created, except if those
38 facilities or services are essentially nonfunctional, obsolete,
39 hazardous, or in need of upgrading or rehabilitation. The

1 additional facilities or services may supplement those facilities
2 and services as needed to serve new developments.

3 (b) A district may include areas that are not contiguous. A
4 district may be divided into project areas, each of which may be
5 subject to distinct limitations established under this chapter. The
6 legislative body may, at any time, add territory to a district or
7 amend the infrastructure financing plan for the district by
8 conducting the same procedures for the formation of a district or
9 approval of bonds, if applicable, as provided pursuant to this
10 chapter.

11 (c) Any district may finance any project or portion of a project
12 that is located in, or overlaps with, any redevelopment project
13 area or former redevelopment project area or former military
14 base.

15 (d) Notwithstanding subdivision (c), any debt or obligation of
16 a district shall be subordinate to an enforceable obligation of a
17 former redevelopment agency, as defined in Section 34171 of the
18 Health and Safety Code.

19 (e) The legislative body of the city forming the district may
20 choose to dedicate any portion of its net available revenue to the
21 district through the financing plan described in Section 53399.14.

22 53399.6. It is the intent of the Legislature that the establishment
23 of a district should not ordinarily lead to the removal of existing
24 functional, habitable, and safe dwelling units. If, however, any
25 dwelling units are proposed to be removed or destroyed in the
26 course of private development or facilities construction within the
27 area of the district, the legislative body shall do all of the
28 following:

29 (a) Within four years of the removal or destruction, cause or
30 require the construction or rehabilitation, for rental or sale to
31 persons or families of low or moderate income, of an equal number
32 of replacement dwelling units at affordable housing cost, as defined
33 in Section 50052.5 of the Health and Safety Code, or affordable
34 rent, as defined in Section 50053 of the Health and Safety Code,
35 within the territory of the district if the dwelling units removed
36 were inhabited by persons or families of low or moderate income,
37 as defined in Section 50093 of the Health and Safety Code.

38 (b) Within four years of the removal or destruction, cause or
39 require the construction or rehabilitation, for rental or sale to
40 persons of low or moderate income, a number of dwelling units

1 *which is at least one unit but not less than 20 percent of the total*
2 *dwelling units removed at affordable housing cost, as defined in*
3 *Section 50052.5 of the Health and Safety Code, or affordable rent,*
4 *as defined in Section 50053 of the Health and Safety Code, within*
5 *the territory of the district if the dwelling units removed or*
6 *destroyed were not inhabited by persons of low or moderate*
7 *income, as defined in Section 50093 of the Health and Safety Code.*

8 *(c) In the case of dwelling units located on a former military*
9 *base that are destroyed or removed in connection with a base reuse*
10 *plan, replacement dwelling units required by subdivision (a) or*
11 *(b) may be located anywhere within the territory of the former*
12 *military base consistent with the base reuse plan, local general*
13 *plan, and infrastructure financing plan, as applicable.*

14 *(d) Provide relocation assistance and make all the payments*
15 *required by Chapter 16 (commencing with Section 7260) of*
16 *Division 7 of Title 1, to persons displaced by any public or private*
17 *development occurring within the territory of the district. This*
18 *displacement shall be deemed to be the result of public action.*

19 *(e) Ensure that removal or destruction of any dwelling units*
20 *occupied by persons or families of low or moderate income not*
21 *take place unless and until there are suitable housing units, at*
22 *comparable cost to the units from which the persons or families*
23 *were displaced, available and ready for occupancy by the residents*
24 *of the units at the time of their displacement. The housing units*
25 *shall be suitable to the needs of these displaced persons or families*
26 *and shall be decent, safe, sanitary, and otherwise standard*
27 *dwellings.*

28 *53399.7. Any action or proceeding to attack, review, set aside,*
29 *void, or annul the creation of a district, adoption of an*
30 *infrastructure financing plan, including a division of taxes*
31 *thereunder, or an election pursuant to this chapter shall be*
32 *commenced within 30 days after the enactment of the ordinance*
33 *creating the district pursuant to Section 53399.23. Consistent with*
34 *the time limitations of this section, such an action or proceeding*
35 *with respect to a division of taxes under this chapter may be*
36 *brought pursuant to Chapter 9 (commencing with Section 860) of*
37 *Title 10 of Part 2 of the Code of Civil Procedure, except that*
38 *Section 869 of the Code of Civil Procedure shall not apply.*

39 *53399.8. An action to determine the validity of the issuance of*
40 *bonds pursuant to this chapter may be brought pursuant to Chapter*

1 9 (commencing with Section 860) of Title 10 of Part 2 of the Code
2 of Civil Procedure. However, notwithstanding the time limits
3 specified in Section 860 of the Code of Civil Procedure, the action
4 shall be commenced within 30 days after adoption of the resolution
5 pursuant to Section 53399.44 providing for issuance of the bonds
6 if the action is brought by an interested person pursuant to Section
7 863 of the Code of Civil Procedure. Any appeal from a judgment
8 in that action or proceeding shall be commenced within 30 days
9 after entry of judgment.

10
11 *Article 2. Preparation and Adoption of Infrastructure*
12 *Revitalization Financing District Plans*
13

14 53399.10. A legislative body of a city may designate one or
15 more proposed infrastructure revitalization financing districts
16 pursuant to this chapter. Proceedings for the establishment of a
17 district shall be instituted by the adoption of a resolution of
18 intention to establish the proposed district and shall do all of the
19 following:

20 (a) State that an infrastructure revitalization financing district
21 is proposed to be established under the terms of this chapter and
22 describe the boundaries of the proposed district and any project
23 area proposed within the district, which may be accomplished by
24 reference to a map on file in the office of the clerk of the city.

25 (b) State the type of facilities proposed to be financed by the
26 district. The district may only finance facilities authorized by
27 Section 53399.3.

28 (c) State that incremental property tax revenue from the city
29 and some or all affected taxing entities within the district may be
30 used to finance these facilities.

31 (d) State that net available revenue from the city may be used
32 to finance these facilities and state the maximum portion of the
33 net available revenue to be committed to the district for each year
34 during which the district will receive these revenues.

35 (e) Fix a time and place for a public hearing on the proposal.

36 53399.11. The legislative body shall direct the clerk to mail a
37 copy of the resolution of intention to create the district to each
38 owner of land within the district.

39 53399.12. The legislative body shall direct the clerk to mail a
40 copy of the resolution to each affected taxing entity.

1 53399.13. After adopting the resolution pursuant to Section
2 53399.10, the legislative body shall designate and direct the city
3 engineer or other appropriate official to prepare an infrastructure
4 plan pursuant to Section 53399.14.

5 53399.14. After receipt of a copy of the resolution of intention
6 to establish a district, the official designated pursuant to Section
7 53399.13 shall prepare a proposed infrastructure financing plan.
8 The infrastructure financing plan shall be consistent with the
9 general plan of the city within which the district is located and
10 shall include all of the following:

11 (a) A map and legal description of the proposed district, which
12 may include all or a portion of the district designated by the
13 legislative body in its resolution of intention.

14 (b) A description of the facilities required to serve the
15 development proposed in the area of the district including those
16 to be provided by the private sector, those to be provided by
17 governmental entities without assistance under this chapter, those
18 improvements and facilities to be financed with assistance from
19 the proposed district, and those to be provided jointly. The
20 description shall include the proposed location, timing, and costs
21 of the improvements and facilities.

22 (c) A finding that the facilities are of communitywide
23 significance.

24 (d) A financing section, which shall contain all of the following
25 information:

26 (1) A specification of the maximum portion of the incremental
27 tax revenue of the city and of each affected taxing entity proposed
28 to be committed to the district for each year during which the
29 district will receive incremental tax revenue. The portion need not
30 be the same for all affected taxing entities. The portion may change
31 over time.

32 (2) A projection of the amount of tax revenues expected to be
33 received by the district in each year during which the district will
34 receive tax revenues, including an estimate of the amount of tax
35 revenues attributable to each affected taxing entity proposed to
36 be committed to the district for each year. If applicable, the plan
37 shall also include a specification of the maximum portion of the
38 net available revenue of the city proposed to be committed to the
39 district for each year during which the district will receive revenue.
40 The portion may vary over time.

1 (3) A plan for financing the facilities to be assisted by the
2 district, including a detailed description of any intention to incur
3 debt.

4 (4) A limit on the total number of dollars of taxes that may be
5 allocated to the district pursuant to the plan.

6 (5) A date on which the district shall cease to exist, by which
7 time all tax allocation, including any allocation of net available
8 revenue, to the district will end. The date shall not be more than
9 40 years from the date on which the ordinance forming the district
10 is adopted pursuant to Section 53399.23, or a later date, if specified
11 by the ordinance, on which the allocation of tax increment will
12 begin. The district may issue debt with a final maturity date of up
13 to 30 years from the date of issuance of each debt issue, subject
14 to the time limit on tax allocation to the district.

15 (6) An analysis of the costs to the city of providing facilities and
16 services to the area of the district while the area is being developed
17 and after the area is developed. The plan shall also include an
18 analysis of the tax, fee, charge, and other revenues expected to be
19 received by the city as a result of expected development in the area
20 of the district.

21 (7) An analysis of the projected fiscal impact of the district and
22 the associated development upon each affected taxing entity that
23 is proposed to participate in financing the district.

24 (8) A plan for financing any potential costs that may be incurred
25 by reimbursing a developer of a project that is both located entirely
26 within the boundaries of that district and qualifies for the Transit
27 Priority Project Program, pursuant to Section 65470, including
28 any permit and affordable housing expenses related to the project.

29 (e) If any dwelling units occupied by persons or families of low
30 or moderate income are proposed to be removed or destroyed in
31 the course of private development or facilities construction within
32 the area of the district, a plan providing for replacement of those
33 units and relocation of those persons or families consistent with
34 the requirements of Section 53399.6.

35 53399.15. The infrastructure financing plan shall be sent to
36 each owner of land within the proposed district and to each
37 affected taxing entity together with any report required by the
38 California Environmental Quality Act (Division 13 (commencing
39 with Section 21000) of the Public Resources Code) that pertains
40 to the proposed facilities or the proposed development project for

1 *which the facilities are needed, and shall be made available for*
2 *public inspection. The report shall also be sent to the planning*
3 *commission and the legislative body.*

4 *53399.16. The designated official shall consult with each*
5 *affected taxing entity, and, at the request of any affected taxing*
6 *entity, shall meet with representatives of an affected taxing entity.*
7 *Any affected taxing entity may suggest revisions to the plan.*

8 *53399.17. The legislative body shall conduct a public hearing*
9 *prior to adopting the proposed infrastructure financing plan. The*
10 *public hearing shall be called no sooner than 60 days after the*
11 *plan has been sent to each affected taxing entity. In addition to*
12 *the notice given to landowners and affected taxing entities pursuant*
13 *to Sections 53399.11 and 53399.12, notice of the public hearing*
14 *shall be given by publication not less than once a week for four*
15 *successive weeks in a newspaper of general circulation published*
16 *in the city in which the proposed district is located. The notice*
17 *shall state that the district will be used to finance public works,*
18 *briefly describe the public works, briefly describe the proposed*
19 *financial arrangements, including the proposed commitment of*
20 *incremental tax revenue, describe the boundaries of the proposed*
21 *district and state the day, hour, and place when and where any*
22 *persons having any objections to the proposed infrastructure*
23 *financing plan, or the regularity of any of the prior proceedings,*
24 *may appear before the legislative body and object to the adoption*
25 *of the proposed plan by the legislative body.*

26 *53399.18. At the hour set in the required notices, the legislative*
27 *body shall proceed to hear and pass upon all written and oral*
28 *objections. The hearing may be continued from time to time. The*
29 *legislative body shall consider the recommendations, if any, of*
30 *affected taxing entities, and all evidence and testimony for and*
31 *against the adoption of the plan. The legislative body may modify*
32 *the plan by eliminating or reducing the size and cost of proposed*
33 *public works, by reducing the amount of proposed debt, or by*
34 *reducing the portion, amount, or duration of incremental tax*
35 *revenues to be committed to the district.*

36 *53399.19. (a) The legislative body shall not enact a resolution*
37 *proposing formation of a district and providing for the division of*
38 *taxes of any affected taxing entity pursuant to Article 3*
39 *(commencing with Section 53399.30) unless a resolution approving*
40 *the plan has been adopted by the governing body of each affected*

1 *taxing entity which is proposed to be subject to division of taxes*
2 *pursuant to Article 3 (commencing with Section 53399.30) has*
3 *been filed with the legislative body at or prior to the time of the*
4 *hearing.*

5 *(b) In the case of an affected taxing entity that is a special*
6 *district that provides fire protection services and where the county*
7 *board of supervisors is the governing authority or has appointed*
8 *itself as the governing board of the district, the plan shall be*
9 *adopted by a separate resolution approved by the district's*
10 *governing authority or governing board.*

11 *(c) Nothing in this section shall be construed to prevent the*
12 *legislative body from amending its infrastructure financing plan*
13 *and adopting a resolution proposing formation of the infrastructure*
14 *revitalization financing district without allocation of the tax*
15 *revenues of any affected taxing entity which has not approved the*
16 *infrastructure financing plan by resolution of the governing body*
17 *of the affected taxing entity.*

18 *53399.20. (a) At the conclusion of the hearing, the legislative*
19 *body may adopt a resolution proposing adoption of the*
20 *infrastructure financing plan, as modified, and formation of the*
21 *infrastructure revitalization financing district in a manner*
22 *consistent with Section 53399.19, or it may abandon the*
23 *proceedings. If the legislative body adopts a resolution proposing*
24 *formation of the district, it shall then submit the proposal to create*
25 *the district to the qualified electors of the proposed district in the*
26 *next general election or in a special election to be held,*
27 *notwithstanding any other requirement, including any requirement*
28 *that elections be held on specified dates, contained in the Elections*
29 *Code, at least 90 days, but not more than 180 days, following the*
30 *adoption of the resolution of formation. The legislative body shall*
31 *provide the resolution of formation, a certified map of sufficient*
32 *scale and clarity to show the boundaries of the district, and a*
33 *sufficient description to allow the election official to determine*
34 *the boundaries of the district to the official conducting the election*
35 *within three business days after the adoption of the resolution of*
36 *formation. The assessor's parcel numbers for the land within the*
37 *district shall be included if it is a landowner election or the district*
38 *does not conform to an existing district's boundaries and if*
39 *requested by the official conducting the election. If the election is*
40 *to be held less than 125 days following the adoption of the*

1 resolution of formation, the concurrence of the election official
2 conducting the election shall be required. However, any time limit
3 specified by this section or requirement pertaining to the conduct
4 of the election may be waived with the unanimous consent of the
5 qualified electors of the proposed district and the concurrence of
6 the election official conducting the election.

7 (b) If at least 12 persons have been registered to vote within
8 the territory of the proposed district for each of the 90 days
9 preceding the close of the hearing, the vote shall be by the
10 registered voters of the proposed district, who need not necessarily
11 be the same persons, with each voter having one vote. Otherwise,
12 the vote shall be by the landowners of the proposed district and
13 each landowner who is the owner of record at the close of the
14 protest hearing, or the authorized representative thereof, shall
15 have one vote for each acre or portion of an acre of land that he
16 or she owns within the proposed district. The number of votes to
17 be voted by a particular landowner shall be specified on the ballot
18 provided to that landowner.

19 (c) Ballots for the special election authorized by subdivision
20 (a) may be distributed to qualified electors by mail with return
21 postage prepaid or by personal service by the election official.
22 The official conducting the election may certify the proper mailing
23 of ballots by an affidavit, which shall be exclusive proof of mailing
24 in the absence of fraud. The voted ballots shall be returned to the
25 election officer conducting the election not later than the hour
26 specified in the resolution calling the election. However, if all the
27 qualified voters have voted, the election shall be closed.

28 53399.21. (a) Except as otherwise provided in this chapter,
29 the provisions of law regulating elections of the local agency that
30 calls an election pursuant to this chapter, insofar as they may be
31 applicable, shall govern all elections conducted pursuant to this
32 chapter. Except as provided in subdivision (b), there shall be
33 prepared and included in the ballot material provided to each
34 voter, an impartial analysis pursuant to Section 9160 or 9280 of
35 the Elections Code, arguments and rebuttals, if any, pursuant to
36 Sections 9162 to 9167, inclusive, and 9190 of the Elections Code
37 or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the
38 Elections Code.

39 (b) If the vote is to be by the landowners of the proposed district,
40 analysis and arguments may be waived with the unanimous consent

1 of all the landowners and shall be so stated in the order for the
2 election.

3 53399.22. (a) If the election is to be conducted by mail ballot,
4 the election official conducting the election shall provide ballots
5 and election materials pursuant to subdivision (d) of Section 53326
6 and Section 53327, together with all supplies and instructions
7 necessary for the use and return of the ballot.

8 (b) The identification envelope for return of mail ballots used
9 in landowner elections shall contain the following:

10 (1) The name of the landowner.

11 (2) The address of the landowner.

12 (3) A declaration, under penalty of perjury, stating that the voter
13 is the owner of record or the authorized representative of the
14 landowner entitled to vote and is the person whose name appears
15 on the identification envelope.

16 (4) The printed name and signature of the voter.

17 (5) The address of the voter.

18 (6) The date of signing and place of execution of the declaration
19 pursuant to paragraph (3).

20 (7) A notice that the envelope contains an official ballot and is
21 to be opened only by the canvassing board.

22 53399.23. After the canvass of returns of any election pursuant
23 to Section 53399.20, the legislative body may, by ordinance, adopt
24 the infrastructure financing plan and create the district with full
25 force and effect of law, if 55 percent of the votes upon the question
26 of creating the district are in favor of creating the district.

27 53399.24. After the canvass of returns of any election
28 conducted pursuant to Section 53399.20, the legislative body shall
29 take no further action with respect to the proposed infrastructure
30 revitalization financing district for one year from the date of the
31 election if the question of creating the district fails to receive
32 approval of 55 percent of the votes cast upon the question.

33 53399.25. The legislative body may submit a proposition to
34 establish or change the appropriations limit, as defined by
35 subdivision (h) of Section 8 of Article XIII B of the California
36 Constitution, of a district to the qualified electors of a proposed
37 or established district. The proposition establishing or changing
38 the appropriations limit shall become effective if approved by the
39 qualified electors voting on the proposition and shall be adjusted
40 for changes in the cost of living and changes in populations, as

1 *defined by subdivisions (b) and (c) of Section 7901, except that*
2 *the change in population may be estimated by the legislative body*
3 *in the absence of an estimate by the Department of Finance, and*
4 *in accordance with Section 1 of Article XIII B of the California*
5 *Constitution. For purposes of adjusting for changes in population,*
6 *the population of the district shall be deemed to be at least one*
7 *person during each calendar year. Any election held pursuant to*
8 *this section may be combined with any election held pursuant to*
9 *Section 53395.20 in any convenient manner.*

10 *53399.26. No later than June 30 of each year after the adoption*
11 *of an infrastructure financing plan, the legislative body shall post*
12 *an annual report in an easily identifiable and accessible location*
13 *on the legislative body's Internet Web site. The annual report shall*
14 *contain all of the following:*

- 15 *(a) A summary of the district's expenditures.*
16 *(b) A description of the progress made toward the district's*
17 *adopted goals.*
18 *(c) An assessment of the status regarding completion of the*
19 *district's projects.*

20
21 *Article 3. Division of Taxes*
22

23 *53399.30. Any infrastructure financing plan may contain a*
24 *provision that taxes, if any, levied upon taxable property in the*
25 *area included within the infrastructure revitalization financing*
26 *district each year by or for the benefit of the State of California,*
27 *or any affected taxing entity after the effective date of the ordinance*
28 *adopted pursuant to Section 53399.23 to create the district, shall*
29 *be divided as follows:*

- 30 *(a) That portion of the taxes which would be produced by the*
31 *rate upon which the tax is levied each year by or for each of the*
32 *affected taxing entities upon the total sum of the assessed value of*
33 *the taxable property in the district as shown upon the assessment*
34 *roll used in connection with the taxation of the property by the*
35 *affected taxing entity, last equalized prior to the effective date of*
36 *the ordinance adopted pursuant to Section 53399.23 to create the*
37 *district, shall be allocated to, and when collected shall be paid to,*
38 *the respective affected taxing entities as taxes by or for the affected*
39 *taxing entities on all other property are paid.*

1 ***(b) That portion of the levied taxes each year specified in the***
2 ***adopted infrastructure financing plan for the city and each affected***
3 ***taxing entity which has agreed to participate pursuant to Section***
4 ***53399.19 in excess of the amount specified in subdivision (a) shall***
5 ***be allocated to, and when collected shall be paid into a special***
6 ***fund of, the district for all lawful purposes of the district. Unless***
7 ***and until the total assessed valuation of the taxable property in a***
8 ***district exceeds the total assessed value of the taxable property in***
9 ***the district as shown by the last equalized assessment roll referred***
10 ***to in subdivision (a), all of the taxes levied and collected upon the***
11 ***taxable property in the district shall be paid to the respective***
12 ***affected taxing entities. When the district ceases to exist pursuant***
13 ***to the adopted infrastructure financing plan, all moneys thereafter***
14 ***received from taxes upon the taxable property in the district shall***
15 ***be paid to the respective affected taxing entities as taxes on all***
16 ***other property are paid.***

17 ***53399.31. All costs incurred by a county in connection with***
18 ***the division of taxes pursuant to Section 53399.30 for a district***
19 ***shall be paid by that district.***

20
21 ***Article 4. Tax Increment Bonds***
22

23 ***53399.40. The legislative body may, by majority vote, initiate***
24 ***proceedings to issue bonds pursuant to this chapter by adopting***
25 ***a resolution stating its intent to issue the bonds.***

26 ***53399.41. The resolution adopted pursuant to Section 53399.40***
27 ***shall contain all of the following information:***

28 ***(a) A description of the facilities to be financed with the***
29 ***proceeds of the proposed bond issue.***

30 ***(b) The estimated cost of the facilities, the estimated cost of***
31 ***preparing and issuing the bonds, and the principal amount of the***
32 ***proposed bond issuance.***

33 ***(c) The maximum interest rate and discount on the proposed***
34 ***bond issuance.***

35 ***(d) The date of the election on the proposed bond issuance and***
36 ***the manner of holding the election.***

37 ***(e) A determination of the amount of tax revenue available or***
38 ***estimated to be available, for the payment of the principal of, and***
39 ***interest on, the bonds.***

1 (f) A finding that the amount necessary to pay the principal of,
2 and interest on, the proposed bond issuance will be less than, or
3 equal to, the amount determined pursuant to subdivision (e).

4 53399.42. The clerk of the legislative body shall publish the
5 resolution adopted pursuant to Section 53399.40 once a day for
6 at least seven successive days in a newspaper published in the city
7 or county at least six days a week, or at least once a week for two
8 successive weeks in a newspaper published in the city or county
9 less than six days a week.

10 If there are no newspapers meeting these criteria, the resolution
11 shall be posted in three public places within the territory of the
12 district for two succeeding weeks.

13 53399.43. The legislative body shall submit the proposal to
14 issue the bonds to the voters who reside within the district. The
15 election shall be conducted in the same manner as the election to
16 create the district pursuant to Section 53399.20 and the two
17 elections may be consolidated.

18 53399.44. (a) Except as provided in Section 53399.4, bonds
19 may be issued if 55 percent of the voters voting on the proposition
20 vote in favor of authorizing the issuance of the bonds.

21 (b) If the voters authorize the issuance of the bonds as provided
22 by subdivision (a), the legislative body may subsequently proceed
23 with the issuance of the bonds by adopting a resolution which shall
24 provide for all of the following:

- 25 (1) The issuance of the bonds in one or more series.
26 (2) The principal amount of the bonds, which shall be consistent
27 with the amount specified in subdivision (b) of Section 53399.41.
28 (3) The date the bonds will bear.
29 (4) The date of maturity of the bonds.
30 (5) The denomination of the bonds.
31 (6) The form of the bonds.
32 (7) The manner of execution of the bonds.
33 (8) The medium of payment in which the bonds are payable.
34 (9) The place or manner of payment and any requirements for
35 registration of the bonds.
36 (10) The terms of call or redemption, with or without premium.

37 53399.45. If any proposition submitted to the voters pursuant
38 to this chapter is defeated by the voters, the legislative body shall
39 not submit, or cause to be submitted, a similar proposition to the
40 voters for at least one year after the first election.

1 53399.46. *The legislative body may, by majority vote, provide*
2 *for refunding of bonds issued pursuant to this chapter. However,*
3 *refunding bonds shall not be issued if the total net interest cost to*
4 *maturity on the refunding bonds plus the principal amount of the*
5 *refunding bonds exceeds the total net interest cost to maturity on*
6 *the bonds to be refunded. The legislative body may not extend the*
7 *time to maturity of the bonds.*

8 53399.47. *The legislative body or any person executing the*
9 *bonds shall not be personally liable on the bonds by reason of*
10 *their issuance. The bonds and other obligations of a district issued*
11 *pursuant to this chapter are not a debt of the city, county, or state*
12 *or of any of its political subdivisions, other than the district, and*
13 *none of those entities, other than the district, shall be liable on the*
14 *bonds and the bonds or obligations shall be payable exclusively*
15 *from funds or properties of the district. The bonds shall contain a*
16 *statement to this effect on their face. The bonds do not constitute*
17 *an indebtedness within the meaning of any constitutional or*
18 *statutory debt limitation.*

19 53399.48. (a) *The bonds may be sold at discount not to exceed*
20 *5 percent of par at a negotiated or public sale. At least five days*
21 *prior to a public sale, notice shall be published, pursuant to Section*
22 *6061, in a newspaper of general circulation and in a financial*
23 *newspaper published in the City and County of San Francisco and*
24 *in the City of Los Angeles. The bonds may be sold at not less than*
25 *par to the federal government at private sale without any public*
26 *advertisement.*

27 (b) *Any negotiated sale of bonds pursuant to this section shall*
28 *be limited to bond issuances of an infrastructure and revitalization*
29 *financing district that do not exceed five million dollars*
30 *(\$5,000,000).*

31 53399.49. *If any member of the legislative body whose*
32 *signature appears on bonds ceases to be a member of the*
33 *legislative body before delivery of the bonds, his or her signature*
34 *is as effective as if he or she had remained in office. Bonds issued*
35 *pursuant to this chapter are fully negotiable.*

36 SEC. 2. *Section 33459 of the Health and Safety Code is*
37 *amended to read:*

38 33459. For purposes of this article, the following terms shall
39 have the following meanings:

1 (a) “Department” means the Department of Toxic Substances
2 Control.

3 (b) “Director” means the Director of Toxic Substances Control.

4 (c) “Hazardous substance” means any hazardous substance as
5 defined in subdivision (h) of Section 25281, and any reference to
6 hazardous substance in the definitions referenced in this section
7 shall be deemed to refer to hazardous substance, as defined in this
8 subdivision.

9 (d) “Local agency” means a single local agency that is one of
10 the following:

11 (1) A local agency authorized pursuant to Section 25283 to
12 implement Chapter 6.7 (commencing with Section 25280) of, and
13 Chapter 6.75 (commencing with Section 25299.10) of, Division
14 20.

15 (2) A local officer who is authorized pursuant to Section 101087
16 to supervise a remedial action.

17 (3) *An infrastructure and revitalization financing district.*

18 (e) “Qualified independent contractor” means an independent
19 contractor who is any of the following:

20 (1) An engineering geologist who is certified pursuant to Section
21 7842 of the Business and Professions Code.

22 (2) A geologist who is registered pursuant to Section 7850 of
23 the Business and Professions Code.

24 (3) A civil engineer who is registered pursuant to Section 6762
25 of the Business and Professions Code.

26 (f) “Release” means any release, as defined in Section 25320.

27 (g) “Remedy” or “remove” means any action to assess, evaluate,
28 investigate, monitor, remove, correct, clean up, or abate a release
29 of a hazardous substance or to develop plans for those actions.
30 “Remedy” includes any action set forth in Section 25322 and
31 “remove” includes any action set forth in Section 25323.

32 (h) “Responsible party” means any person described in
33 subdivision (a) of Section 25323.5 of this code or subdivision (a)
34 of Section 13304 of the Water Code.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, August 6, 2012. (JR11)**

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